

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

IBRAHIMA WANE,

Plaintiff,

v.

KORKOR, *et al.*,

Defendants.

Case No. 1:22-cv-00813-JLT-BAM (PC)

ORDER GRANTING PLAINTIFF'S MOTION
FOR SECOND EXTENSION OF TIME TO
SERVE DISCOVERY RESPONSES
(ECF No. 31)

**Deadline for Plaintiff's Responses to
Defendant Chen's Request for Production of
Documents, Set One: October 30, 2023**

ORDER GRANTING PARTIES'
STIPULATED MOTION TO MODIFY
DISCOVERY AND SCHEDULING ORDER
(ECF No. 32)

**Exhaustion Motion Filing Deadline:
November 20, 2023**

Plaintiff Ibrahim Wane ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's first amended complaint against Defendants Chen and Korkor¹ for failure to treat Plaintiff's side effects caused by the Celexa medication, in violation of the Eighth Amendment.

Pursuant to the Court's June 20, 2023 discovery and scheduling order, the deadline for filing motions for summary judgment for failure to exhaust administrative remedies is October

¹ Erroneously sued as "Chain" and "Korkor."

1 20, 2023. (ECF No. 24.)

2 On August 29, 2023, the Court granted Plaintiff's motion for an extension of time to serve
3 responses to Defendant Chen's Request for Production of Documents, Set One, noting Defendant
4 Chen's response agreeing to the requested extension. (ECF No. 30.) Plaintiff's responses were
5 therefore due on or before September 15, 2023. (*Id.*)

6 On September 18, 2023, Plaintiff filed a second request for an extension of time to
7 respond to Defendant Chen's Request for Production of Documents, Set One. (ECF No. 31.) As
8 the request includes a certificate of service signed and dated September 11, 2023, the Court
9 accepts the request as filed before the expiration of the deadline for Plaintiff's discovery
10 responses. (*Id.* at 4.) Plaintiff requests an extension until October 30, 2023, because he is
11 awaiting responses to his various requests to review his medical records and final decision, and
12 due to his job he cannot access the law library unless he is granted time off. (*Id.* at 2.)
13 Defendants did not file a response, and the deadline to do so has expired. The motion is deemed
14 submitted. Local Rule 230(l).

15 Also before the Court is the parties' stipulation and proposed order to modify the
16 discovery and scheduling order, filed October 9, 2023. (ECF No. 32.) In light of Plaintiff's
17 failure to respond to Defendants' other discovery requests, excluding Defendant Chen's Request
18 for Production of Documents, Set One,² and his failure to seek an extension of time to serve those
19 responses, the parties met and conferred on September 12, 2023, and Plaintiff agreed to serve his
20 responses to the Defendants' remaining discovery requests, without objections, no later than
21 September 30, 2023. (*Id.* at 2.) Defendants agreed not to seek the Court's intervention regarding
22 Plaintiff's belated outstanding responses to the remaining discovery requests provided that
23 Plaintiff's responses are mailed to Defendants' counsel on or before September 30, 2023. (*Id.*) In
24 addition, the parties agree that, in light of this delay, good cause exists to modify the discovery
25 and scheduling order to extend the deadline to file motions for summary judgment for failure to

26 ² The remaining discovery requests are: (a) Defendant Chen's Requests for Admission, Set One;
27 (b) Defendant Chen's Interrogatories, Set One; (c) Defendant Kokor's Requests for Admission,
28 Set One; (d) Defendant Kokor's Requests for Production of Documents, Set One; and
(e) Defendant Kokor's Interrogatories, Set One. (ECF No. 32, p. 2.)

1 exhaust administrative remedies to November 20, 2023, to avoid prejudice to Defendants. (*Id.* at
2 3.) The request is signed by Plaintiff and counsel for Defendants. (*Id.* at 4.)

3 In light of the parties' agreement, and Defendants failure to oppose or otherwise address
4 Plaintiff's motion for a second extension of time to respond to Defendant Chen's Requests for
5 Production, Set One, the Court finds good cause to grant both Plaintiff's motion and the joint
6 request to modify the discovery and scheduling order. Fed. R. Civ. P. 16(b)(4).

7 Accordingly, IT IS HEREBY ORDERED as follows:

- 8 1. Plaintiff's motion for a second extension of time to respond to Defendant Chen's Request
9 for Production of Documents, Set One, (ECF No. 31), is GRANTED;
- 10 2. Plaintiff's responses to Defendant Chen's Request for Production of Documents, Set One,
11 are due on or before **October 30, 2023**;
- 12 3. The parties' stipulated motion to modify the discovery and scheduling order, (ECF No.
13 32), is GRANTED;
- 14 4. The deadline for filing motions for summary judgment for failure to exhaust
15 administrative remedies is extended from October 20, 2023 to **November 20, 2023**;
- 16 5. All other requirements and deadlines set forth in the Court's June 20, 2023 discovery and
17 scheduling order, (ECF No. 24), remain in place; and
- 18 6. **A request for an extension of a deadline set in this order must be filed on or before**
19 **the expiration of the deadline in question and will only be granted on a showing of**
20 **good cause.**

21
22 IT IS SO ORDERED.

23 Dated: October 11, 2023

24 /s/ Barbara A. McAuliffe
25 UNITED STATES MAGISTRATE JUDGE
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